

**House Energy and Commerce Committee
Subcommittee on Oversight and Investigations Hearing:
“Thoroughbred Horse Racing Jockeys and Workers: Examining On-
Track Injury Insurance and Other Health and Welfare Issues”
November 17, 2005**

Testimony Submitted by Mr. Martin Maline

My name is Martin Maline. I am the Executive Director of the Kentucky Horsemen’s Benevolent and Protective Association (KHBPA), a position I have held since February, 1976. The KHBPA is a trade association representing the interests of approximately 6,000 owners and trainers of thoroughbred horses racing in Kentucky. In addition, we also administer to the needs of thousands of stable workers.

Susan Bunning is the current President of the KHBPA and she, along with the ten-member Board of Directors, is elected by a vote of the entire membership every three years. Susan, incidentally, is the daughter-on-law of Senator Jim Bunning from Kentucky.

The KHBPA is an affiliate of the National HBPA, which represents approximately 40,000 horsemen in the United States and Canada. For a three year period during the 1980s, in addition to my duties as the KHBPA Executive Director, I served as the interim Executive Director of the National HBPA.

The KHBPA negotiates contracts with the various racing associations to assure that an equitable share of wagering revenue adequately funds purses so that the racing industry will thrive in the state of Kentucky. The agreements,

which vary from racetrack to racetrack, include provisions addressing the split of sponsorship revenues, potential media rights, and revenue generated from the simulcasting of and wagering on Kentucky's races in other locations outside the state. One and one half percent of the horsemen's share of wagering revenue is allocated for the funding of the KHBPA. The organization is audited on an annual basis by the accounting firm of Deming, Malone, Livesay and Ostroff.

In addition, the contracts provide for the implementation of funded horsemen's committees that specifically address myriad issues that confront workers at racetracks. These committees address the basic living needs of workers at the track, and matters to make a difficult and strenuous work environment a bit more tolerable. The committees address such needs and lifestyle issues as housing, shower and restroom facilities, cable television, recreation and social programs, and the overall maintenance of the backstretch community and the racing surface. These are issues of great importance to the tireless workers, and except for the efforts of the HBPA, may be neglected.

The main office of the KHBPA is in Louisville, Kentucky in proximity to Churchill Downs. The KHBPA also maintains satellite offices at each of the five thoroughbred racetracks in Kentucky and at the two largest training centers in Lexington and Louisville. This allows us to have very hands-on and day-to-day contact with our constituency and the racing workforce.

Through our affiliation with the National HBPA, the KHBPA provides free fire and disaster insurance. This has been especially important to the horsemen stabled at Ellis Park in Henderson, Kentucky, where a large section of the barn

area was obliterated by the tornado that hit on November 6. Fortunately, there was no loss of human life at the racetrack, but several horses were killed or severely injured and horsemen and workers living at the track lost everything. As is the custom of an organization that was built on the adage "Horsemen helping Horsemen," we were there to offer support and succor to the horsemen in need. We provided housing to everyone displaced and began the tedious process of assisting horsemen with the information required by the insurance company. In addition to the fire and disaster insurance coverage, as a member of the National HBPAA Emergency Assistance Committee I plan to apply to the committee, on behalf of the Ellis Park horsemen, for financial help for the unfortunate victims of this natural disaster.

The havoc wreaked by the tornado occurred as the KHBPA was in the midst of helping other horsemen afflicted by hardship; we held a fundraiser on Monday, November 7 that was originally scheduled to assist the Louisiana horsemen displaced by Hurricane Katrina. While we were arranging this event there was a tragic trailer fire that killed four small children of stable employees at Churchill. This loss, combined with the damage at Ellis Park, gave the fundraiser a new sense of urgency. Horsemen struggled to come to terms with the losses that their fellow horsemen were being forced to endure.

The KHBPA provides benevolence to horsemen and stable workers in need. We work closely with the Kentucky Racing Health and Welfare Fund (KRH&WF) to assure that assistance is provided when there is need. In addition to medical benefits, housing, emergency travel and legal advice, the KHBPA

employs a Hispanic Services Coordinator to help our large Spanish-speaking workforce navigate through barriers that at times can be somewhat overwhelming. We are proud to say that hundreds have been assisted in obtaining H-2 work visas and the process continues daily.

In many ways the backstretch community is a microcosm of society, where work conditions are hard and living comfortably can be a challenge. Workers are usually transients, and the place they and their family must call home often consists of one small room. The restroom and shower facilities are, in some instances, a long walk from the living quarters. As often where these types of conditions exist in society, drug and alcohol problems are perhaps exacerbated. While the KHBPA has championed recreation and social programs and provides financial support for full-time chaplains at each racetrack, there are still people that struggle with addictive behavior. For this reason, the KHBPA, in conjunction with the KRH&WF, developed the Thoroughbred Addiction Council of Kentucky (TACK). KRH&WF Chairman Don Ball challenged me and KRH&WF Executive Director Richard Riedel to explore various options in an effort to arrive at a solution that fits the unique problems of the sometimes nomadic existence of the racetrack community. We accessed the local communities surrounding the various racetracks to locate counselors familiar with the in-patient treatment centers in that specific region. As a horseman moves from track to track, the counselors communicate, informing each other of the special needs of the individual.

TACK has been recognized by former President George Bush's Thousand Points of Light program and received the Governor's Award of Excellence. The majority of funding for TACK is through a generous contribution from the KRH&WF. TACK is a 501-C3 non-profit program and is audited annually. The only expenditures of TACK are for the counselors, a bookkeeper, and maintenance of the Concord House, a halfway facility for recovering racetrack workers. The rest of us volunteer our time to this worthwhile project.

The KHBPA has actively lobbied for legislation advantageous to the racing industry. The Backstretch Improvement Commission, developed by legislation and spearheaded by the KHBPA, assures that improvements that address living conditions for backside workers remain a priority. Stabling and shipping expenses and purse enhancements are also KHBPA legislative initiatives designed to assist horsemen.

The KHBPA has taken a firm stance on the horse racing industry's efforts to address the health and welfare of the sport's jockeys, exercise riders, and backstretch workers, including the issue of on-track injury insurance and workers' compensation, and other health and welfare issues faced by the industry's workers. The KHBPA supports the requirement that trainers carry workers' compensation insurance on their employees, and we facilitate that process by providing the names of carriers that specialize in the equine industry.

The dilemma concerns independent contractors working in various capacities at racetracks and training centers in Kentucky and throughout the United States. This includes jockeys, free lance exercise riders, pony people

(individuals who exercise horses while astride another horse), horse trainers, veterinarians, blacksmiths, feed suppliers, and others working in various capacities on no one's particular payroll.

The KHBPA understands and appreciates the committee's interest in addressing what is perceived as a tremendous oversight on the part of the racing industry: allowing jockeys to ride without adequate insurance. We listened to Gary Birzer's testimony in front of this committee and we are deeply saddened by his plight. I had the opportunity to observe Gary earlier in his career at racetracks in Ohio and Kentucky, it was obvious that he loved being a jockey. His story is a tragic one, but horse trainers, who are likewise usually self-employed, have similar problems. Let me share with you the stories of two horse trainers, both of whom were severally injured in riding accidents.

The first individual, licensed as a horse trainer, was exercising a horse for a friend and fellow horse trainer. The rein broke and the horse veered into the rail. The trainer lost his arm due to the accident. Another trainer, an accomplished horsewoman and horse trainer, was injured while astride one of her own horses when the horse unexpectedly stumbled. She is now confined to a wheelchair and will never walk again. The KHBPA is in the process of purchasing a motorized wheelchair for her, but it has been a tremendous emotional struggle for her to accept.

Trainers are expected to carry their own insurance. One did have limited coverage, but the other did not.

There are no easy answers, but one consideration would be to have the Kentucky Racing Authority, the regulatory arm of racing in Kentucky, require everyone working as an independent contractor in Kentucky to show proof of insurance prior to receiving a license. Currently, trainers are required to have workers' compensation at time of licensing, but this is not strictly enforced. In addition, workers' compensation coverage applies only to actual employees, and not to the various independent contractors working at racetracks.